



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location –

**Civic Center, Benicia Room
455 Golden Gate Avenue
San Francisco, CA 94102**

Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location –

Civic Center, Benicia Room
455 Golden Gate Avenue
San Francisco, CA 94102

Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – DECEMBER 6, 2005

SUMMARY MINUTES¹

DECEMBER 6, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members present:

**William Elkins, President
Maeley Tom, Vice President
Ron Alvarado, Member
Sean Harrigan, Member
Anne Sheehan, Member**

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

A. The joint BCPs submitted by SPB and DPA appear to have been partially successful. Some funding for a classification study and building a joint DPA/SPB portal will likely be made available.

B. The Workforce Planning Conference held on December 2, 2005, was a big success with over 250 people attending. Karen Coffee and Mary Fernandez were commended for their leadership in planning and directing this event.

C. The Plata lawsuit, involving prison healthcare, is in the remedial stage. Federal District Court Judge Henderson has become frustrated with the speed of compliance and is particularly concerned about the pace of hiring new healthcare staff (doctors, nurses, physician assistants, etc.). Some of his orders do not permit the State, including the SPB, to make decisions consistent with State requirements of public notice and prior Board approval. In order to comply with the court's orders, the Executive Officer and staff will attempt to comply with the court's timelines and may in some instances be forced to act first and receive Board ratification or approval afterwards.

**3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)
– Ron Alvarado**

Member Ron Alvarado gave a brief report on recent activities of the Public Employees Retirement System.

¹ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

4. REPORT OF THE CHIEF COUNSEL – Elise Rose

State Personnel Board v. Department of Personnel Admin., et al.

On December 1, 2005, the California Supreme Court issued its decision confirming that the merit principle embodied in the California Constitution requires that State Personnel Board (SPB) have exclusive jurisdiction to hear appeals from disciplinary actions taken against state civil service employees. In State Personnel Board v. Department of Personnel Administration, the Court struck down the provisions contained in four state employee collective bargaining agreements, and implementing legislation, that provided for the review of disciplinary actions by a grievance and arbitration process rather than by the SPB, on the ground that those provisions violated the California constitutional requirement that the SPB “shall review disciplinary actions.” The Court held that, because employee discipline is an integral part of the merit-based civil service system, the SPB has exclusive authority to review disciplinary actions taken against state civil service employees. The Court rejected the argument that employees can waive review of discipline by the SPB in favor of a collectively bargained alternative process, finding that the public’s interest in a merit-based civil service would be subverted if various ad hoc arbitral boards, operating beyond the oversight of the SPB and not bound to apply its merit-based standards, could review and reverse disciplinary actions. The Court’s decision confirms the SPB’s central function in administering the civil service in accordance with the merit principle.

5. NEW BUSINESS

NONE PRESENTED

6. REPORT ON LEGISLATION – Sherry Hicks

NONE PRESENTED

7. ELECTION OF BOARD OFFICERS

On December 6, 2005, the Board unanimously elected Mr. Elkins to serve as the President, Mr. Alvarado to serve as the Vice President, and additionally, the Board also unanimously elected Ms. Tom to serve as the representative to the California Public Employees’ Retirement System’s Board for the calendar year 2006.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

8. HEARING – THIRD PUBLIC HEARING ON PROPOSED REVISIONS TO WHISTLEBLOWER RETALIATION COMPLAINT REGULATIONS (Title 2, C.C.R., section 56 et. seq.) – Bruce Monfross

Proposed revisions to the Whistleblower Complaint Procedures Regulations, which were originally proposed and made available at public hearings conducted on August 30 and October 3, 2005 and in a Notice of Proposed Regulations and Statements of Reasons dated July 8, 2005.

ACTION: ADOPTED

9. HEARING – THIRD PUBLIC HEARING ON PROPOSED REVISIONS TO DISCOVERY REGULATIONS IN EVIDENTIARY HEARINGS REGULATIONS (Title 2, C.C.R., section 57 et. seq.) – Bruce Monfross

Proposed revisions to the Discovery in Evidentiary Hearings Regulations, which were originally proposed and made available at hearings conducted on August 3 and October 3, 2005 and in a Notice of Proposed Regulations and Statement of Reasons dated July 8, 2005.

ACTION: ADOPTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

11. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

12. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,
United States District Court, Northern District of California.

13. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

14. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

15. HEARING – ANNUAL CENSUS OF EMPLOYEES IN THE STATE CIVIL SERVICE, 2004-2005 FISCAL YEAR – Matilda Aidam

Government Code sections 19237, 19405, 19705, 19792.5(b) and 19793 require the State Personnel Board to provide the Governor and Legislature with an Annual Report regarding the state civil service workforce. This report covers the 2004-05 fiscal year. The Board approved this report for submission to the Governor and the Legislature at the November 15, 2005 Board meeting.

16. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF DECEMBER 20, 2005, IN SACRAMENTO, CALIFORNIA

NONE

BOARD ACTIONS:

17. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF NOVEMBER 1, 2005

- **ADOPTION OF THE PROPOSED STATE PERSONNEL BOARD 2006 BOARD MEETING SCHEDULE**

ACTION: ADOPTED

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

18. EVIDENTIARY CASES - (See Case Listings on Page 11-17)

19. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes Page 23-24)

ACTION: ADOPTED

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

20. NON-EVIDENTIARY CASES - (See Case Listings on Page 17-20)

21. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On December 6, 2005, the Board took the following action on the following proposal as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

ACTION: ADOPTED

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) proposes the establishment of a new classification titled Physician Assistant, Correctional Facility.

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

NONE

22. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes served to inform interested individuals and departments of proposed and approved CEA position actions.

- A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

ASSISTANT DEPUTY DIRECTOR, ENTERPRISE PLANNING AND SERVICES, INFORMATION SERVICES DIVISION

The Department of Motor Vehicles proposes to allocate the above position to the CEA category. The Assistant Deputy Director, Enterprise Planning and Services is responsible for the development and maintenance of policy affecting all facets of Information Technology (IT), including IT policy governing existing IT systems, as well as policy that will facilitate the modernization of the department's information technology infrastructure.

DEPUTY DIRECTOR, COMMUNICATIONS AND PLANNING

The Department of Managed Health Care proposes to allocate the above position to the CEA category. The Deputy Director, Communications and Planning is responsible for planning, implementing and directing a comprehensive public affairs program for all Department of Managed Health Care programs.

MEDIA MANAGER, MEDIA RELATIONS SECTION

The Board of Equalization proposes to reallocate the existing CEA position titled Chief Communications Office to the above position. The Media Manager, Media Relations Section will have a major role in formulating the direction and policy of BOE's overall communication protocol. The position will move down one organizational level and change its reporting relationship.

CHIEF, BOARD PROCEEDINGS DIVISION

The Board of Equalization proposes to reallocate the existing CEA Chief, Board Proceedings Division. The Chief, Board Proceedings Division recommends policies to the Executive Director, the Chief Counsel and the Members of the Board for the effective conduct of the Board's business and the integrity of the tax appeals program. The position will move down one organizational level and change its reporting relationship.

****CORRECTION****

LEGISLATIVE COUNSEL, EXTERNAL AND LEGISLATIVE AFFAIRS

The above position has not been submitted by the Board of Equalization for inclusion into the CEA category.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

ASSISTANT DEPUTY PROJECT DIRECTOR, PROJECT ADMINISTRATION AND NETWORK SERVICES

The Franchise Tax Board has withdrawn their proposal to allocate the above position to the CEA category effective November 15, 2005.

CHIEF DEPUTY DIRECTOR

The Department of Motor Vehicles proposal to allocate the above position to the CEA category has been disapproved effective August 31, 2005.

ACTON: NOTED

24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

NONE

25. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

26. BOARD ACTIONS ON SUBMITTED ITEMS – (See Minutes - Page 21-22)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on these Minutes under Evidentiary Cases.

**27. STRATEGIC PLANNING SESSION INTRODUCTION
– California State Personnel Board Staff**

Speaker:

Floyd Shimomura – Executive Officer, California State Personnel Board

28. STRATEGIC PLANNING SESSION I –

**IMPROVE ACCESS AND DELIVERY OF POLICY AND TECHNICAL MERIT
SYSTEM GUIDANCE TO STAKEHOLDERS
– California State Personnel Board Staff**

Speaker:

Carol Ong – Policy Division Manager, California State Personnel Board
Elizabeth Montoya – Policy Division Staff, California State Personnel Board

29. STRATEGIC PLANNING SESSION II –

**ENSURE AN ADEQUATE NUMBER OF QUALIFIED EMPLOYEES FOR THE
FUTURE TO CARRY OUT THE STATE’S MISSION
– California State Personnel Board Staff**

Speaker:

Laura Aguilera – Assistant Executive Officer, California State Personnel Board

30. STRATEGIC PLANNING SESSION III –

**ENHANCE COMMUNICATION BETWEEN SPB AND OUR STAKEHOLDERS
AND THE GENERAL PUBLIC – California State Personnel Board Staff**

Speaker:

Laura Aguilera – Assistant Executive Officer, California State Personnel Board
Sherry Hicks – Legislation Director, California State Personnel Board

31. STRATEGIC PLANNING SESSION IV –

**IMPROVE STATE EMPLOYEE PERFORMANCE TO MORE EFFICIENTLY
SERVE THE PEOPLE OF CALIFORNIA
– California State Personnel Board Staff**

Speaker:

Elise Rose – Chief Counsel, California State Personnel Board

A D J O U R N M E N T

18. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On December 6, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

(1) PATRICK BRASS, CASE NO. 04-1952A

Appeal from dismissal

Classification: Youth Correctional Counselor

Department: Department of the Youth Authority

Proposed decision rejected July 26, 2005

Transcript prepared

Oral argument heard November 1, 2005, San Diego

Case ready for decision by FULL Board

ACTION: The Board issued a non-precedential resolution revoking the dismissal.

(2) GARY GARFINKEL, CASE NO. 98-3128RBA

Appeal for determination of back salary, benefits and interest

Classification: Deputy Attorney General IV

Department: Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepare

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Oral argument heard November 1, 2005, San Diego

Case ready for decision by FULL Board

NO ACTION

(3) MARK SAMORA, CASE NO. 04-3041A

Appeal from dismissal

Classification: Information Technology Consultant

Department: California State University, Los Angeles

Proposed decision rejected July 13, 2005

Transcript prepared

Oral argument heard October 3, 2005, Sacramento

Case ready for decision by FULL Board

ACTION: The Board issued a non-precedential resolution sustaining appellant's dismissal.

B. CASES PENDING

ORAL ARGUMENTS

These cases would have been on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

On December 6, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

(1) KATHY DAVIS, CASE NO. 04-1550

Appeal from dismissal

Classification: Driver Safety Officer

Department: Department of Motor Vehicles

ACTION: The Board issued a Resolution denying appellant's request for an Order to Show Cause against the Department of Motor Vehicles.

COURT REMANDS

This case was remanded to the Board by the court for further Board action.

(1) KARMEN PERRY, CASE NO. 03-2107

Appeal from five percent reduction in salary for twelve months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitations

ACTION: The Board issued a non-precedential decision modifying the disciplinary action from a five percent reduction in salary for twelve months, to a five percent reduction in salary for three months.

STIPULATIONS

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On December 6, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

(1) JESUS FLORES, CASE NO. 05-2530

Appeal from 30 work days suspension

Classification: Groundswoker

Department: California State University, Los Angeles

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the thirty working days suspension.

(2) HECTOR J. HUEZO, CASE NO. 04-2747

Appeal from dismissal

Classification: Workers Compensation Insurance Technician

Department: State Compensation Insurance Fund

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

- (3) **EDMUND LAURENSKI, CASE NO. 05-1072**
Appeal from five percent reduction in pay for six months
Classification: Painter III, Correctional Facility
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision revoking the five percent reduction in pay for six months.
- (4) **SAMUEL LAWANSON, CASE NO. 05-2120**
Appeal from ten percent reduction in salary for twelve months
Classification: Vocational Instructor
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the ten percent reduction in salary for twelve months.
- (5) **PETER MALDONADO, CASE NO. 05-2333**
Appeal from dismissal
Classification: Stationary Engineer
Department: Department of Veterans Affairs
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (6) **ERNEST PITTMAN, CASE NO. 05-1591**
Appeal from dismissal
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles
ACTION: The Board rejected the ALJ's Proposed Decision modifying the dismissal to a six month suspension. The Board will hear the case itself.
- (7) **RICHARD QUADRELLI, CASE NO. 05-1039**
Appeal from dismissal
Classification: Caltrans Maintenance Supervisor
Department: Department of Transportation
ACTION: The Board rejected the ALJ's Proposed Decision dismissing the appeal. The Board will hear the case itself.
- (8) **RUBEN C. SALGADO, CASE NO. 04-2045**
Appeal from 10 work days suspension
Classification: Officer
Department: Department of California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision modifying the 10 working days suspension to a three day suspension.

- (9) **RAYMOND D. SLEDGE, CASE NO. 04-2809**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of the Youth Authority
ACTION: The Board adopted the ALJ's Proposed Decision modifying the dismissal to a 30 day suspension.
- (10) **ALAN J. SOARES, CASE NO. 05-2649**
Appeal from formal reprimand
Classification: Maintenance Mechanic
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the formal reprimand.
- (11) **JAMES STEED, CASE NO. 05-0207**
Appeal from constructive medical suspension
Classification: Facility Captain
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision denying the appeal.

Proposed Decisions Taken Under Submission At Prior Meeting

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

- (12) **ROBERT FINE, CASE NO. 04-2958R**
Appeal from five percent reduction in salary for six pay periods
Classification: Parole Agent I, Adult Parole
Department: Department of Corrections
ACTION: The Board adopted the ALJ's Proposed Decision modifying the five percent reduction in salary for six pay periods to an official reprimand.

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On December 6, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **KIRK BROWN, CASE NO. 05-1462P**
Appeal from whistleblower retaliation complaint
Classification: Stationary Engineer (Correctional Facility)
Department: Department of Corrections and Rehabilitation
ACTION: Appellant's petition for rehearing was denied by Board.
- (2) **STEVEN M. KAMP, CASE NO. 05-1262P**
Appeal from whistleblower retaliation complaint
Classification: Tax Counsel III
Department: State Board of Equalization
ACTION: Appellant's petition for rehearing was denied by Board.
- (3) **STEVEN SWAN, CASE NO. 04-1538P & 05-0524P**
Appeal from involuntary transfers
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: Appellant's petition for rehearing was denied by Board.
- (4) **MICHAEL G. YARBOROUGH, CASE NO. 05-0080P**
Appeal from demotion and termination of Career Executive Assignment
Department: Department of Corrections and Rehabilitation
ACTION: Appellant's petition for rehearing was denied by Board.

WHISTLEBLOWER NOTICE OF FINDINGS

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **EDUARDO PEREZ, CASE NO. 05-0763A**
Appeal from five percent reduction in salary for six months
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections

Proposed decision rejected November 1, 2005
Pending transcript
NO ACTION

20. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On December 6, 2005, the Board took the following actions on the following cases as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) **MILTON AZEVEDO, CASE NO. 05-1496**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability and a negative employment record.
ACTION: DENIED

- (2) **CLARENCE CELESTINE, CASE NO. 04-1407**
Classification: California Youth Authority
Department: Youth Correctional Authority
Issue: Failed to appear at psychological examination and initial investigative interview.
ACTION: DENIED
- (3) **EDDIE ESPINOZA, CASE NO. 04-2634**
Classification: CHP Cadet
Department: California Highway Patrol
Issue: Suitability; omitted pertinent information and negative law enforcement contact.
ACTION: DENIED
- (4) **LAWRENCE GARMON, CASE NO. 05-0406**
Classification: Medical Technical Assistant
Department: Corrections
Issue: Suitability and firearm prohibition.
ACTION: DENIED
- (5) **FARRIS HISLE, CASE NO. 05-0815**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative driving and negative law enforcement contacts and negative military record.
ACTION: DENIED
- (6) **JENNIFER JONES, CASE NO. 05-0676**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitting pertinent information and illegal drug possession.
ACTION: DENIED
- (7) **DANIEL JUAREZ, CASE NO. 05-0949**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, negative military, employment and law enforcement contacts and arrest and conviction record.
ACTION: DENIED

- (8) **CORNELL REED, CASE NO. 04-2433**
Classification: Motor Vehicle Field Representative
Department: Motor Vehicles
Issue: Conviction involving moral turpitude and suitability.
ACTION: GRANTED
- (9) **LA NOLA SMITH, CASE NO. 04-1997**
Classification: Motor Vehicle Field Representative
Department: Motor Vehicles
Issue: Moral turpitude.
ACTION: GRANTED
- (10) **SHANNON SOVICK, CASE NO. 04-2530**
Classification: CHP Cadet
Department: California Highway Patrol
Issue: Suitability and a negative employment record.
ACTION: GRANTED
- (11) **JOHN VARNI, CASE NO. 05-1914**
Classification: CHP Cadet
Department: California Highway Patrol
Issue: Suitability; negative employment record as a peace officer.
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases would have been heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases would have been heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases would have been heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

On December 6, 2005, the Board took the following actions on the following cases as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) ARVIND BALU, CASE NO. 04-2177**
Classification: Civilly committed offender at ASH
Department: Mental Health
Issue: The charging party requests charges be filed against the charged parties for violations of various subsections of Government Code section 19572.
ACTION: DENIED
- (2) STAR MOFFATT, CASE NO. 04-2755**
Classification: Member of the Public
Department: Alcohol and Drug Programs
Issue: The charging party requests charges be filed against the charged parties for violations of various subsections of Government Code section 19572.
ACTION: DENIED

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. HEARING – PERSONAL SERVICES CONTRACT # 05-07

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)

ACTION: The Board issued a non-precedential decision disapproving the contract entered into between the Department of General Services and American Building Maintenance Janitorial Services for the provision of janitorial services at the Franchise Tax Board.

7. MARK SAMORA, CASE NO. 04-3041A

Appeal from dismissal. Information Technology Consultant. California State University, Los Angeles. (Oral Argument held October 3, 2005)

ACTION: The Board issued a non-precedential resolution sustaining appellant's dismissal.

8. HEARING – PERSONAL SERVICES CONTRACT #05-04

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's April 1, 2005 Approval of a Contract for Legal Services between the Secretary of State's Office and Renne & Holtzman Public Law Group, LLP (Oral Argument held on October 3, 2005)

ACTION: The Board issued a non-precedential decision approving the contract entered into between the Secretary of State's Office and the law firm of Renne & Holtzman, LLP, for the provision of legal services.

9. HEARING

Proposed Revisions to Whistleblower Retaliation Complaint Regulations (Title 2, C.C.R., section 56 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

ACTION: ADOPTED

10. HEARING

Proposed Revisions to Discovery Regulations in Evidentiary Hearings Regulations (Title 2, C.C.R., section 57 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

ACTION: ADOPTED

11. PATRICK BRASS, CASE NO. 04-1952A.

Appeal from dismissal. Youth Correctional Counselor. Department of the Youth Authority. (Oral Argument heard November 1, 2005)

ACTION: The Board issued a non-precedential resolution revoking the dismissal.

12. GARY GARFINKLE, CASE NO. 98-3128RBA.

Appeal for determination of back salary, benefits and interest. Deputy Attorney General IV. Department of Justice. (Oral Argument heard November 1, 2005)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on December 6, 2005.

VOTE: Elkins, Tom, Sheehan, Harrigan – Aye

A handwritten signature in cursive script that reads "Floyd D. Shimomura". The signature is written in black ink and is positioned above a horizontal line.

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board